

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff(s),

No. C 07-4762 PJH

v.

**JUDGMENT AND PERMANENT
INJUNCTION**

CHARLES CATHCART, et al.,

Defendant(s).

The court having granted plaintiff's motion for default judgment against defendant Derivium Capital USA ("Derivium USA") and having found that:

1. Derivium USA has engaged in conduct covered by 26 U.S.C. § 6700, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent it from engaging in such further conduct; and
2. Under I.R.C. § 7402(a), injunctive relief against Derivium is necessary or appropriate for the enforcement of the Internal Revenue laws,

hereby enters the following permanent injunction:

A. Pursuant to I.R.C. § 7402(a) and 7408, Derivium USA is enjoined and restrained from, directly or indirectly, by use of any means or instrumentalities:

1. Organizing, promoting, marketing, selling, or implementing the "90% Loan" program that is the subject of the complaint herein;
2. Organizing, promoting, marketing, selling, or implementing any program, plan or arrangement similar to the 90% Loan program that purports to enable customers to receive valuable consideration in exchange for stocks and other securities that are transferred or pledged by those customers, without the

1 need to pay tax on any gains because the transaction is characterized as a
2 loan rather than a sale;

3 3. Engaging in any conduct subject to penalty under I.R.C. § 6700, *i.e.*, by
4 making or furnishing, in connection with the organization or sale of a plan or
5 arrangement, a gross valuation overstatement or a statement Derivium USA
6 knows or has reason to know to be false or fraudulent as to any material
7 matter under the federal tax laws; and

8 4. Selling or organizing, or causing the sale or organization, of any type of
9 corporation, trust, limited liability company, arrangement of business entities,
10 or plan which he knows or has reason to know advocates or facilitates
11 material non-compliance with the federal tax laws.

12 The court further ORDERS that the United States may conduct post-judgment
13 discovery to monitor compliance with the injunction and the court shall RETAIN
14 JURISDICTION over this action for the purposes of implementing and enforcing the final
15 judgment and any additional orders necessary and appropriate to the public interest.

16 IT IS SO ORDERED.

17 Dated: March 5, 2010



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19 PHYLLIS J. HAMILTON
20 United States District Judge
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